

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7468**

**BILL NUMBER:** HB 1545

**NOTE PREPARED:** Jan 11, 2009

**BILL AMENDED:**

**SUBJECT:** Sentencing for Methamphetamine Offenses.

**FIRST AUTHOR:** Rep. Yarde

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Enhanced Penalty:* The bill makes possessing: (1) more than ten grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or (2) anhydrous ammonia or ammonia solution with the intent to manufacture methamphetamine or amphetamine; Class C felonies instead of Class D felonies.

*Suspended Sentence:* It allows a court to suspend only that part of a sentence that is in excess of the minimum sentence imposed on a person convicted of: (1) dealing in methamphetamine; (2) possessing more than ten grams of ephedrine, pseudoephedrine, or phenylpropanolamine; and (3) possessing anhydrous ammonia or ammonia solution with the intent to manufacture methamphetamine or amphetamine.

*Parole:* The bill provides that when a person convicted of dealing in methamphetamine, possessing more than ten grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or possessing anhydrous ammonia or ammonia solution with the intent to manufacture methamphetamine or amphetamine completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole: (1) until a date not more than 24 months from the date the person is placed on parole, as determined by the parole board; or (2) until the date the person's fixed term of imprisonment expires; whichever is later.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *Summary-* State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. The bill could result in certain offenders serving a longer term of incarceration or remain on parole for a longer period.

*Enhanced Sentence:* Possessing more than ten grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; and possessing anhydrous ammonia or ammonia solution with the intent to manufacture methamphetamine or amphetamine are Class D felonies that may be enhanced to a Class C felony for possession of a firearm or being within 1,000 feet of certain locations. The bill would increase the penalty for this underlying offense from a Class D felony to a Class C felony.

*Suspended Sentence:* If the court may suspend only the portion of the sentence in excess of the minimum, the offender could serve a longer period of incarceration. Under current law, the court may not suspend the minimum sentence if the court finds the person possessed a firearm at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under 18 years of age at least 3 years junior to the person and was on a school bus or within 1,000 feet of school property; a public park; a family housing complex; or a youth program center. The bill changes this definition to all convictions concerning (1) dealing in methamphetamine; (2) possessing more than ten grams of ephedrine, pseudoephedrine, or phenylpropanolamine; and (3) possessing anhydrous ammonia or ammonia solution with the intent to manufacture methamphetamine or amphetamine.

*Parole:* Parole is a function of the DOC. Costs for parole supervision could increase if more offenders will be under parole supervision for a longer period of time. Violation of a condition of parole could result in an offender serving a period of incarceration, or it could extend the period the offender is under community supervision. If an offender is supervised in the community on parole for a longer period of time, courts may need more staff to supervise more offenders. Any effects of this bill would be at the parole board's discretion.

#### Background-

*Enhanced Sentence and Suspended Sentence:* A Class D felony is punishable by a prison term ranging between 6 months and 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

A one-day snapshot of the DOC prison population indicates that there are 22 offenders serving for a Class C felony offense and 47 Class D felony offenders. [The number of offenders subject to the provisions of this bill may be smaller because there are two additional felony offenses under the same code section and the circumstances of the offense are not available.]

*Parole:* The Parole Board is budgeted through the DOC. Appropriations for the Board and the Parole Division were \$9.6M in both FY 2008 and 2009. On December 22, 2008, there were eight vacant parole officer positions with a combined salary of \$244,500, and there were no funds reverted to the state General Fund from the Parole Board or Division in FY 2008.

**Explanation of State Revenues:** *Enhanced Penalty:* No change would likely occur in state revenue as a

result of this bill since criminal fines and court fees are the same for either Class D or C felonies.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Enhanced Penalty:* No additional revenues would be expected since the court fees for Class D and Class C felonies are both \$120.

**State Agencies Affected:** DOC.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; DOC.

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